

CBI vs. Sh. D.M. Raut & Ors.  
CC No. 247/19

08.07.2020

Present:- Sh. Brijesh Kumar Singh, Ld. Sr. PP for CB with SI Anuragi.

Status report filed by CBI mentioning that due to Covi-19 pandemic, no further progress has been received from the bank with regard to reference made to DoPT.

The Ld. District & Sessions Judge-cum-Special Judge, CBI, P.C. Act, 1988 has adjourned this case enblock to 10.08.2020.

Be listed on **10.08.2020**.

Let a copy of this order be sent by whatsapp to Ld. Sr. PP for CBI.

(ARUN BHARDWAJ)  
Special Judge (P.C. Act)(CBI-05)  
Rouse Avenue District Court,  
New Delhi/08.07.2020

CBI vs. Sh. Umesh Sadhana & Ors.  
CC No. 248/19

08.07.2020

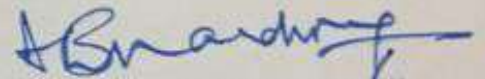
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(ARUN BHARDWAJ)  
Special Judge (P.C. Act)(CBI-05)  
Rouse Avenue District Court,  
New Delhi/08.07.2020

08.07.2020

Present: Sh. B.K. Singh Ld. Sr. P.P. for CBI.

Sh. Pradeep Rana, Ld. Counsel for Accused No. 1 Smt. Aarti Kalra, who is present from Dubai through video conferencing.

None for Accused No. 2 Sh. Shailendra Kumar Upadhyay.

Sh. I.D. Vaid, Ld. Counsel for Accused No. 3 Sh. Harbans Lal Maan.

None for Accused No. 4 Sh. Ravinder Nath.

None for Accused No. 5 Sh. Nakul Gheek.

None for Accused No. 6 Sh. Harmeet Singh.

None for Accused No. 7 Sh. Radhey Shyam Goel.

Sh. Ankur Jain and Sh. R.K. Jain, Ld. Counsels for Accused No.8  
Sh. Prashant Kumar.

(Through VC using Cisco Webex App.)

Bail applications have been filed in soft form on behalf of Accused No. 1 Smt. Aarti Kalra, Accused No. 3 Sh. Harbans Lal Maan and Accused No. 8 Sh. Prashant Kumar. Application for exemption has also been filed for Accused No. 3 Sh. Harbans Lal Maan. The accused shall file on record hard copies of all the applications after courts resume regular working.

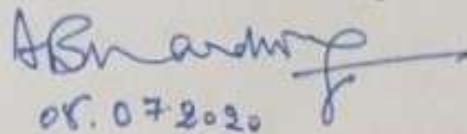
Soft copies be given by the reader of the court to the Ld. Sr. PP for CBI.

Let replies be filed on the next date of hearing.

Till then, on furnishing personal bond and surety bond of a sum of Rs.1,00,000/-, the accused no. 3 and 8 are admitted to interim bail.

Orders on bail application of accused no. 1 shall be passed when she is in India.

It is also submitted by Ld. Sr. PP for CBI that chargesheet and documents are now ready and the accused can collect the same from him from Rouse Avenue District Court on any working day.

  
08.07.2020



The reader of the court has sent the following SMS received by him from Accused No. 6 Sh. Harmeet Singh:-

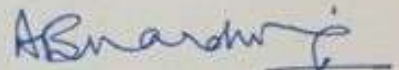
*"As discussed with you I dont have details for virtual hearing to join and present myself. You are requested to kindly convey my inability to be present in absence of virtual meeting details and link. I assure to attend the nex date of hearing. CA Harmeet"*

Let meeting link be sent to accused no.6 for the next date.

The IO of the case will provide mobile numbers of other accused persons so that they can also be directed to remain present through video conferencing on the next date of hearing.

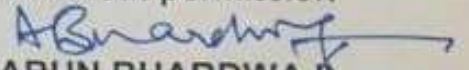
**List for reply / arguments on bail applications on 15.07.2020 at 10:00 am.**

Let a copy of this order be sent by WhatsApp to all the accused (including those who are not represented by their Ld. Counsels/present today) and their learned counsels.



(ARUN BHARDWAJ)  
Special Judge (P.C. Act)(CBI-05)  
Rouse Avenue District Court,  
New Delhi/08.07.2020

At this stage, Bail Bond furnished by learned counsel for accused no.8. Accepted till further orders. Copy be given to learned Sr PP for CBI for verification. Letter be sent to Bank not to release the FDRs without permission of the court.



(ARUN BHARDWAJ)  
Special Judge (P.C. Act)(CBI-05)  
Rouse Avenue District Court,  
New Delhi/08.07.2020

CC No. 63/2019

08.07.2020

Present: Sh. B.K. Singh Ld. Sr. P.P. for CBI.

Accused No. 1 Sh. D.S Sandhu and Accused No. 5 Smt. Sudershan Kapoor in person along with Ld. Counsels Sh. Y. Kahol and Sh. Deepak Sharma.

Accused No. 12 Sh. Vikas Srivastava in person alongwith Ld. Counsels Sh. I.D. Vaid and Sh. Ashok Angral.

Accused No. 7 Sh. Amit Kapoor along with Ld. Counsel Sh. Vikram Panwar.

Accused No. 8 Sh. Rishiraj Behl in person.

Accused No. 6 Sh. Ashwani Dhingra in person along with Ld. Counsel Sh. M.K. Verma who represents Accused No.11 Sh. D.B.Singh also.

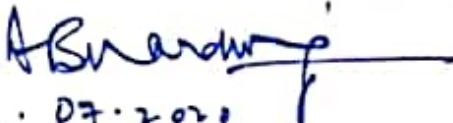
**(Through VC using Cisco Webex App.)**

Today, Shri Vikram Panwar, learned counsel for Accused No. 7 Shri Amit Kapoor addressed arguments.

Learned counsel submitted that the allegations against the accused are noted in the order on charge dated 04/02/2003 in para 21 and 22. Reference was made to Section 228 and Section 240 of CrPC to submit that at the stage of charge the court proceeds on the basis of presumptions for deciding that the accused has committed an offence. He submitted that there is no such presumption at the stage of final arguments and now is the time to test whether the prosecution has succeeded in proving the averments/allegations made in the chargesheet by leading admissible evidence.

Learned counsel next referred to the formal charge framed against the accused which is under Section 120 B read with 411, 420, 467, 468 and 471 of IPC and Section 13 (2) read with Section 13 (1) (d) of the P C Act, 1988. It was submitted that the charge was framed against 12 accused and the conspiracy alleged by the prosecution against the accused persons was to procure loan in favour of A-1, A-2 and A-3 from Central Bank of India by pledging forged KVPs.

The learned counsel submitted that the allegations argued against the accused are (i) that he was identified by PW3 as he had accompanied Accused No.1 to meet PW3, (ii) he had arranged air tickets for the visit of bank official, borrower and Accused No. 8 to Lucknow for verification of KVPs and (iii) a DD issued from the account of Accused No.1 was credited in the

  
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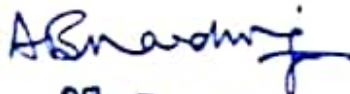
account of this accused. It was submitted that all these 3 allegations are conspicuously absent in the charge framed against the accused. It was submitted that the allegation against the accused in the charge is of facilitating false verification and lien marking on the forged and fabricated KVPs and for facilitating the accused persons in obtaining the defrauded amount.

Learned counsel submitted that his name does not figure in the complaint of the bank which was filed after 5 months of disbursement of loan and after thorough internal investigation. It was submitted that the name of this accused does not appear in the FIR registered by CBI. Learned counsel submitted that in the chargesheet there is no allegation under Section 411 of IPC against this accused.

Allegation in para 3 of the chargesheet is that he along with Accused No.8 had introduced Accused No.1 to Accused No.5 and discussed the matter regarding loan against KVPs. It was submitted that there is no evidence on record to show that Accused No.1 was introduced to Accused No.5 by Accused No. 7. It was submitted that on the contrary the evidence of PW-2 is that he had introduced Accused No.1 in the bank. It was submitted that the person who had introduced Accused No.1 in the bank was not made an accused.

Learned counsel further submitted that the allegation in para 3 of the chargesheet is that Accused No.1, Accused No. 2 and Accused No.3 met PW Shri DL Khanijo the then Regional Manager of the bank and explained their proposal for obtaining OD limit against KVPs. Learned counsel submitted that PW3 does not speak about these 3 accused persons by name in his examination in chief and has deposed that in March 1998, one Sardarji, an aged person whose name was Dil Bhajan Singh along with 2 other persons had come to meet him. It was submitted that the witness has not named Shri Amit Kapoor or Shri Rishi Raj Behl as the persons who had come to meet him. Further, the witness had deposed that he can identify Shri Rishi Behl and Shri Amit Kapoor and correctly identified these two accused who were present in the court. Learned counsel submitted that it was for the prosecution to elicit proper response from the witness PW3 and should have asked whether these are the two persons who had accompanied Shri Dil Bhajan Singh when he had visited the bank to meet him. It was submitted that the manner of identification of these 2 accused persons by the witness is vague. It was also argued that for the 1<sup>st</sup> time identification by the witness in the court is a very weak kind of identification in the absence of the TIP.

It was submitted that this accused had no role for securing sanction of loan in favour of Accused No. 1. There is no allegation or evidence that Shri Amit Kapoor had conspired with any public servant. It was submitted that arranging air tickets is not illegal. There is no evidence that Shri Amit Kapoor knew that the KVPs were forged. It was submitted that arranging tickets was rather for verification of KVPs and not for concealing the true nature of KVPs. It was submitted that what kind of verification was conducted by the bank official at Kanpur is not the concern of this accused. It was submitted that the ticket could have been arranged by anyone else and is not suggestive of

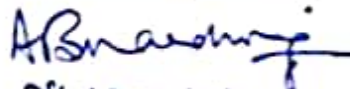
  
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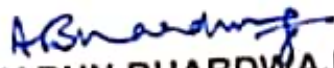
conspiracy. It was submitted that this accused had not gone personally to Kanpur for verification of KVPs.

It was submitted that the table in para 3 of the chargesheet does not name the accused Shri Amit Kapoor as an individual. It mentions M/s. Kavika Marketing Consultants (Private) Ltd, of Amit Kapoor Director. It was submitted that the role of Accused No. 10 Shri Amol Singh was identical to the role of this accused but he was discharged by the Hon'ble High Court. The learned counsel also referred to the evidence of PW5 from Oriental Bank of Commerce. It was submitted that this witness has not named Shri Amit Kapoor by name in his evidence. It was submitted that according to the witness, the beneficiary was M/s. Kavika Marketing and Consultants Private Limited. It is submitted that the money was not withdrawn from the account by Accused No. 7. It was submitted that the documents mentioned in the seizure memo Exhibit PW5/A were never produced in the court. It was submitted that best evidence was withheld from the court for which adverse inference ought to be drawn against the prosecution. It was submitted that by referring to certain documents in the seizure memo, those documents do not stand proved. It was submitted that the account was opened on 20/06/1997. There is no evidence who were the directors of this company in March 1998. It was submitted that the statement of account Exhibit PW5/B simply shows credit of ₹ 2 lakhs in the account but it does not show that the same was through the same DD of ₹ 2 lakhs which was issued from the account of Accused No. 1. It was submitted that various cheques mentioned in the statement of PW5 were not produced in the court to show that they were signed by Accused No. 7. It was submitted that the company M/s. Kavika Marketing and Consultants Private Limited was not made an accused. For the offence of a company, director cannot be prosecuted unless there is vicariously ability. It was submitted that it was not proved that Accused No. 7 was a director in the said company. It was submitted that PW-5 has deposed that he has given his evidence on the basis of records and the account of the company was opened in the bank without his knowledge. It was submitted that this witness has not identified the rubberstamp of the bank or the signature of any officer of the bank on the DD in question. Learned counsel referred to the questions put to the accused under section 313 CrPC especially question No. 11 to 15 and pointed out that neither there was any evidence and therefore no such question was put to him that he had accompanied Accused No. 1 to meet PW3. It was also submitted when the conspiracy comes to an end, the subsequent acts cannot be referred to prove the conspiracy. Reliance is placed on State through SP CBI versus Nalini and others, AIR 1999 SC 2640, para 574 (ii), Santosh Anand Avdutt versus State, 2014 (4) JCC 2649, para 172 and Sardu Singh versus State, AIR 1957 SC 747, para 62. The learned counsel submitted that seeing from all angles, it is a fit case for acquittal of Accused No. 7.

Now, arguments are to be addressed on behalf of Accused No. 8. Sh. MK Verma learned counsel submitted that he has been engaged recently by Accused No. 8 and he be given some time to address the arguments.

  
08.07.2020

List on 13/07/2020 at 11 AM for arguments on behalf of Accused No. 8.  
Let a copy of this order be sent by WhatsApp to all the accused persons and  
their learned counsels.

  
(ARUN BHARDWAJ)  
Special Judge (P.C. Act)(CBI-05)  
Rouse Avenue District Court,  
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